

AMENDED IN ASSEMBLY JANUARY 8, 2014

AMENDED IN ASSEMBLY JANUARY 6, 2014

AMENDED IN ASSEMBLY JUNE 5, 2013

AMENDED IN ASSEMBLY APRIL 9, 2013

AMENDED IN ASSEMBLY MARCH 21, 2013

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## ASSEMBLY BILL

**No. 177**

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**Introduced by Assembly Member V. Manuel Pérez**

January 24, 2013

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An act to amend Section 38550 of the Health and Safety Code, and ~~to amend Section 345.5 of, to add Sections 399.23 and 636~~ *Section 399.23* to, and to repeal and add Section 454.55 of, the Public Utilities Code, relating to public utilities.

### LEGISLATIVE COUNSEL'S DIGEST

AB 177, as amended, V. Manuel Pérez. Public utilities: greenhouse gas emissions reduction: renewable resources.

The Public Utilities Act requires the Public Utilities Commission, in consultation with the Independent System Operator, to establish resource adequacy requirements for all load-serving entities, including electrical corporations, in accordance with specified objectives. That law further requires each load-serving entity to maintain physical generating capacity adequate to meet its load requirements, including peak demand and planning and operating reserves, deliverable to locations and at times as may be necessary to provide reliable electric service.

The California Renewables Portfolio Standard Program, also known as the RPS program, requires a retail seller of electricity, as defined, and local publicly owned electric utilities to purchase specified minimum quantities of electricity products from eligible renewable energy resources, as defined, for specified compliance periods, sufficient to ensure that the procurement of electricity products from eligible renewable energy resources achieves 25% of retail sales by December 31, 2016 and 33% of retail sales by December 31, 2020, and in all subsequent years. The RPS program, consistent with the goals of procuring the least-cost and best-fit eligible renewable energy resources that meet project viability principles, requires that all retail sellers procure a balanced portfolio of electricity products from eligible renewable energy resources, as specified, referred to as the portfolio content requirements. The RPS program requires the Public Utilities Commission to direct each electrical corporation, which are included within the definition of a retail seller, to annually prepare a renewable energy procurement plan containing specified matter and an annual compliance report. The RPS program requires the Public Utilities Commission to adopt, by rulemaking, a process that provides criteria for the rank ordering and selection of least-cost and best-fit eligible renewable energy resources by electrical corporations to comply with the RPS program procurement obligations, on a total cost basis, that take specified matters into account.

This bill would state the policy of the state to require all retail sellers of electricity, including investor-owned electrical corporations and local publicly owned electric utilities, to procure all available cost-effective, *reliable, and feasible* energy efficiency, demand response, and renewable resources, so as to achieve grid reliability and greenhouse gases emission reductions simultaneously, in the most cost-effective and affordable manner practicable. The bill would require that procurement not be limited by any targets established for these resources by statute or regulatory decision.

~~The Public Utilities Act provides for the establishment of an Independent System Operator as a nonprofit public benefit corporation. Existing law requires the Independent System Operator to manage the transmission grid and related energy markets in a manner that is consistent with (1) making the most efficient use of available energy resources, (2) reducing, to the extent possible, overall economic cost to the state's consumers, (3) applicable state law intended to protect the public's health and the environment, and (4) maximizing the availability~~

of existing electric generation resources necessary to meet the needs of the state's electricity consumers.

~~This bill would add a requirement that in managing the transmission grid and related energy markets, the Independent System Operator do so consistent with achieving a continuous reduction in emissions of greenhouse gases associated with California's electrical system sufficient to achieve the state policy goal for greenhouse gas emissions reductions. The bill would revise the 4th requirement described above to require that in managing the transmission grid and related energy markets, the Independent System Operator do so consistent with maximizing utilization of existing electrical resources, including all cost-effective demand-side and renewable energy resources, that are connected to the distribution or transmission grid, as are necessary for reliable operation of the grid and sufficient to meet the needs of the state's electricity consumers.~~

The Public Utilities Act requires the Public Utilities Commission to review and adopt a procurement plan for each electrical corporation in accordance with specified elements, incentive mechanisms, and objectives. The act requires that an electrical corporation's proposed procurement plan include certain elements, including a showing that the electrical corporation will first meet its unmet needs through all available energy efficiency and demand reduction resources that are cost effective, reliable, and feasible. The act requires the Public Utilities Commission, in consultation with the State Energy Resources Conservation and Development Commission, to identify all potentially achievable cost-effective electricity efficiency savings and to establish efficiency targets for electrical corporations to achieve pursuant to their procurement plan.

Existing law requires that each local publicly owned electric utility, as defined, serving end-use customers prudently plan for and procure resources that are adequate to meet its planning reserve margin and peak demand and operating reserves, sufficient to provide reliable electric service to its customers. Existing law additionally requires the local publicly owned electric utility, upon request, to provide the State Energy Resources Conservation and Development Commission with any information the State Energy Resources Conservation and Development Commission determines is necessary to evaluate the progress made by the local publicly owned electric utility in meeting those planning requirements, and requires the State Energy Resources Conservation and Development Commission to report the progress

made by each local publicly owned electric utility to the Legislature, to be included in an integrated energy policy report, as specified. Existing law requires an electrical corporation or local publicly owned electric utility, as defined, to adopt certain strategies in a long-term plan or a procurement plan, as applicable, to achieve efficiency in the use of fossil fuels and to address carbon emissions, as specified.

This bill would require electrical corporations to procure all available cost-effective, *reliable, and feasible* energy efficiency, demand response, and renewable energy resources, and to consider procuring available cost-effective energy storage technologies. The bill would require the Public Utilities Commission to continue to establish efficiency targets for an electrical corporation pursuant to the utility's procurement plan. ~~The bill would require an electrical corporation, in a long-term plan, or local publicly owned electric utility, in a procurement plan, to adopt a long-term procurement strategy to achieve the 2030 goal for reducing emissions of greenhouse gases to be adopted by the State Air Resources Board. The bill would require that each long-term plan adopted by an electrical corporation or procurement plan implemented by a local publicly owned electric utility be updated not less than every 3 years and released to the public, the Governor, and the Legislature and would require that each plan update include estimated emissions of greenhouse gases that are expected to result from implementation of the procurement plan for each 5-year period through December 31, 2050.~~

Under existing law, a violation of the Public Utilities Act or any order, decision, rule, direction, demand, or requirement of the Public Utilities Commission is a crime.

Because the provisions of this bill are within the act, a violation of above requirement would impose a state-mandated local program by expanding the definition of a crime.

The California Global Warming Solutions Act of 2006 requires the State Air Resources Board to adopt a statewide greenhouse gas emissions limit to be achieved by 2020.

This bill would require the state board, by January 1, 2016, to adopt a statewide greenhouse gas emissions limit for electrical corporations and local publicly owned electric utilities to be achieved by 2030.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 38550 of the Health and Safety Code is  
2 amended to read:

3 38550. (a) By January 1, 2008, the state board shall, after one  
4 or more public workshops, with public notice, and an opportunity  
5 for all interested parties to comment, determine what the statewide  
6 greenhouse gas emissions level was in 1990, and approve in a  
7 public hearing, a statewide greenhouse gas emissions limit that is  
8 equivalent to that level, to be achieved by 2020. In order to ensure  
9 the most accurate determination feasible, the state board shall  
10 evaluate the best available scientific, technological, and economic  
11 information on greenhouse gas emissions to determine the 1990  
12 level of greenhouse gas emissions.

13 (b) By January 1, 2016, the state board, after conducting one or  
14 more public workshops with public notice and an opportunity for  
15 all interested parties to comment, and performing an analysis of  
16 the progress being made to achieve the 2020 statewide greenhouse  
17 gas emissions limit, shall adopt in a public hearing a statewide  
18 greenhouse gas emissions limit for electrical corporations, as  
19 defined in Section 218 of the Public Utilities Code, and local  
20 publicly owned electric utilities, as defined in Section 224.3 of the  
21 Public Utilities Code, to be achieved by 2030.

22 ~~SEC. 2. Section 345.5 of the Public Utilities Code is amended~~  
23 ~~to read:~~

24 ~~345.5. (a) The Independent System Operator, as a nonprofit,~~  
25 ~~public benefit corporation, shall conduct its operations consistent~~  
26 ~~with applicable state and federal laws and consistent with the~~  
27 ~~interests of the people of the state.~~

28 ~~(b) To ensure the reliability of electric service and the health~~  
29 ~~and safety of the public, the Independent System Operator shall~~  
30 ~~manage the transmission grid and related energy markets in a~~  
31 ~~manner that is consistent with all of the following:~~

32 ~~(1) Achieving a continuous reduction in emissions of greenhouse~~  
33 ~~gases associated with California's electrical system sufficient to~~  
34 ~~achieve the state policy goal for greenhouse gas emissions~~  
35 ~~reductions.~~

~~(2) Making the most efficient use of available energy resources. For purposes of this section, “available energy resources” include energy efficiency savings, capacity, ancillary services, and demand bid into markets administered by the Independent System Operator. “Available energy resources” do not include a schedule submitted to the Independent System Operator by an electrical corporation or a local publicly owned electric utility to meet its own customer load.~~

~~(3) Reducing, to the extent possible, overall economic cost to the state’s consumers.~~

~~(4) Applicable state law intended to protect the public’s health and the environment.~~

~~(5) Maximizing utilization of existing electrical resources, including all cost-effective demand-side and renewable energy resources that are connected to the distribution or transmission grid, as are necessary for reliable operation of the grid and sufficient to meet the needs of the state’s electricity consumers.~~

~~(6) Conducting internal operations in a manner that minimizes cost impact on ratepayers to the extent practicable and consistent with the provisions of this chapter.~~

~~(7) Coordinating operations and sharing operating data and resources with all balancing area authorities in California in a manner that reduces the cost of maintaining or improving electrical reliability.~~

~~(e) The Independent System Operator shall do all of the following:~~

~~(1) Consult and coordinate with appropriate state and local agencies to ensure that the Independent System Operator operates in furtherance of state law regarding consumer and environmental protection.~~

~~(2) Ensure that the purposes and functions of the Independent System Operator are consistent with the purposes and functions of nonprofit, public benefit corporations in the state, including duties of care and conflict-of-interest standards for officers and directors of a corporation.~~

~~(3) Maintain open meeting standards and meeting notice requirements consistent with the general policies of the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code) and affording the public the greatest~~

possible access, consistent with other duties of the corporation. The Independent System Operator's Open Meeting Policy, as adopted on April 23, 1998, and in effect as of May 1, 2002, meets the requirements of this paragraph. The Independent System Operator shall maintain a policy that is no less consistent with the Bagley-Keene Open Meeting Act than its policy in effect as of May 1, 2002.

(4) Provide public access to corporate records consistent with the general policies of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and affording the public the greatest possible access, consistent with the other duties of the corporation. The Independent System Operator's Information Availability Policy, as adopted on October 22, 1998, and in effect as of May 1, 2002, meets the requirements of this paragraph. The Independent System Operator shall maintain a policy that is no less consistent with the California Public Records Act than its policy in effect as of May 1, 2002.

**SEC. 3.**

**SEC. 2.** Section 399.23 is added to the Public Utilities Code, to read:

399.23. (a) The Legislature finds and declares all of the following:

(1) There is increasing uncertainty with regard to the availability of California's fleet of older powerplants, as well as the state's ability to reduce greenhouse gas emissions beyond the target established for 2020, creating the need for both increased electrical generation from renewable energy resources and reduced demand through energy efficiency and demand response.

(2) It is in the best interest of the electricity consumers of this state that sufficient renewable energy generation supply and demand-side resources are procured to meet electricity demand, and that this supply and these resources provide the highest value, including providing safe, reliable, and affordable electricity supplies and minimizing air quality impacts to consumers in the most cost-effective manner practicable.

(3) Renewable energy generation from renewable energy resources that qualify as local capacity resources are essential to maintaining reliable electricity deliveries.

(4) There are substantial high-quality renewable energy resources in the County of Imperial near the Salton Sea with the ability to reduce greenhouse gas emissions that can generate electricity in a manner that will simultaneously meet local capacity requirements, maintain grid reliability, and provide significant local and regional environmental and economic development benefits.

(5) The commitment to a loading order of preferred resources in the manner prescribed in Section 454.55 is necessary to the continued health and safety of California electric consumers.

(b) Consistent with the loading order adopted by the Energy Commission and the commission that sets forth state policy for preferred resources to meet electrical load needs, it is the intent of the Legislature, and the policy of the state, that all retail sellers of electricity, including investor-owned electrical corporations and local publicly owned electric utilities, shall procure all available cost-effective, *reliable, and feasible* energy efficiency, demand response, and renewable energy resources, so as to achieve grid reliability and greenhouse gases emission reductions simultaneously, in the most cost-effective and affordable manner practicable. Procurement shall not be limited by any targets established for these resources by statute or regulatory decision.

~~SEC. 4.~~

~~SEC. 3.~~ Section 454.55 of the Public Utilities Code is repealed.

~~SEC. 5.~~

~~SEC. 4.~~ Section 454.55 is added to the Public Utilities Code, to read:

454.55. Pursuant to a loading order of preferred resources to meet electricity demand in a manner that improves the state's air quality, reduces greenhouse gas emissions, and preserves electric grid reliability, electrical corporations shall procure all available cost-effective, *reliable, and feasible* energy efficiency, demand response, and renewable energy resources, and shall consider procuring available cost-effective energy storage technologies. *Procurement of conventional or gas-fired generation shall only be undertaken to meet residual need forecasted for the long-term planning period that is not otherwise met by preferred resources.* In measuring the cost-effectiveness of the procurement of preferred resources, the commission shall determine and include the value of grid reliability, including the value of grid reliability of diversity

1 in renewable electric generation by resource type, size, and  
2 location, both alone and in combination with nontransmission  
3 alternatives, and local environmental benefits provided by each  
4 renewable energy resource type technology *in disadvantaged*  
5 *communities that have been identified by the California*  
6 *Environmental Protection Agency pursuant to Section 39711 of*  
7 *the Health and Safety Code*. This procurement shall not be limited  
8 by any targets established for these resources by statute or  
9 regulatory decision. However, the commission shall continue to  
10 establish efficiency targets for an electrical corporation to achieve  
11 pursuant to Section 454.5.

12 ~~SEC. 6. Section 636 is added to the Public Utilities Code, to~~  
13 ~~read:~~

14 ~~636. (a) In a long-term plan adopted by an electrical~~  
15 ~~corporation or in a procurement plan implemented by a local~~  
16 ~~publicly owned electric utility, the electrical corporation or local~~  
17 ~~publicly owned electric utility shall adopt a long-term procurement~~  
18 ~~strategy to achieve the 2030 goal for reducing emissions of~~  
19 ~~greenhouse gases adopted pursuant to subdivision (b) of Section~~  
20 ~~38550 of the Health and Safety Code.~~

21 ~~(b) Each long-term plan adopted by an electrical corporation or~~  
22 ~~procurement plan implemented by a local publicly owned electric~~  
23 ~~utility shall be updated not less than every three years and released~~  
24 ~~to the public, the Governor, and the Legislature. Each procurement~~  
25 ~~plan update shall include estimated emissions of greenhouse gases~~  
26 ~~that are expected to result from implementation of the procurement~~  
27 ~~plan for each five-year period through December 31, 2050.~~

28 ~~SEC. 7.~~

29 *SEC. 5.* No reimbursement is required by this act pursuant to  
30 Section 6 of Article XIII B of the California Constitution because  
31 the only costs that may be incurred by a local agency or school  
32 district will be incurred because this act creates a new crime or  
33 infraction, eliminates a crime or infraction, or changes the penalty  
34 for a crime or infraction, within the meaning of Section 17556 of  
35 the Government Code, or changes the definition of a crime within  
36 the meaning of Section 6 of Article XIII B of the California  
37 Constitution.